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7 *BTO INVESTMENTS, INC.*

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA
10

11 HOLLY MARIE WOOD, an individual,
12 Plaintiff,

13 vs.

14 CARL'S JR., operated and owned by BTO
15 INVESTMENTS, a Delaware corporation;
S.L. INVESTMENTS, a Nevada
16 corporation; CKE RESTAURANTS, INC., a
Delaware corporation; CARL'S JR.
17 RESTAURANTS, LLC, a foreign limited
liability company; CARL KARCHER
18 ENTERPRISES, INC., a foreign
corporation; CKE RESTAURANTS
19 HOLDINGS, INC., a foreign corporation;
RUCEY MOLINA CRUZ, an individual;
20 DOES 1 through 10, inclusive; ROE
CORPORATIONS/ENTITIES 1 through 10,
21 inclusive;

22 Defendants.
23

CASE NO: 2-20-cv-02329-APG-BNW

AMENDED STIPULATED DISCOVERY
PLAN AND SCHEDULING ORDER
(FOURTH REQUEST)

***SPECIAL SCHEDULING REVIEW
REQUESTED***

24
25 Pursuant to Federal Rule of Civil Procedure ("FRCP") 26 and Local Rule 26-1, the
26 parties in this action submit the following Amended Stipulated Discovery Plan and
27 Scheduling Order (Fourth Request) subject to the Court's review and approval:

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I.

INITIAL MATTERS**A. Meeting Between The Parties' Counsel**

Pursuant to FRCP 26(f), the undersigned parties, by and through their respective counsel, conferred on December 17, 2021. Paul S. Padda, Esq. represented Plaintiff Holly Marie Wood; Marcus Lee, Esq. and Jesselyn De Luna, Esq. represented Defendant BTO Investments, Inc.; Rachel Wise, Esq. represented Defendant S.L. Investments; and Julio Garcia, Esq. represented Defendants Carl's Jr. Restaurants, LLC, CKE Restaurants Holdings, Inc., CKE Restaurants, Inc., and Carl Karcher Enterprises, Inc. (hereinafter, the "CKE Defendants").

B. The Parties' Position On Alternative Dispute Resolution

The parties hereby certify that they communicated regarding the possibility of resolution of this case through means of alternative dispute resolution (i.e. arbitration, mediation, early neutral evaluation). An Early Neutral Evaluation session was held in this case on March 10, 2021 (ECF No. 36) but was unsuccessful. A mediation was conducted with the Honorable Jennifer P. Togliatti (Ret.) on November 8, 2021, but was unsuccessful.

C. The Parties' Position On Trial By United States Magistrate Judge And/Or Short Trial Program

Pursuant to FRCP 73, a United States Magistrate Judge may "conduct a civil action or proceedings" if "all parties consent." The parties, by and through their respective counsel, are in agreement that this case should proceed on the normal track with the currently assigned United States District Judge presiding.

II.

DISCOVERY COMPLETED

The parties have conducted the following discovery to date:

1. Plaintiff served her Initial Disclosures on March 3, 2021;
2. Defendant BTO Investments, Inc. served its Initial Disclosures on March 5,

- 1 2021;
- 2 3. CKE Defendants served their Initial Disclosures on March 3, 2021;
- 3 4. Defendant BTO Investments, Inc. propounded its First Set of Interrogatories
- 4 and First Set of Requests for Production to Plaintiff on March 25, 2021;
- 5 5. Plaintiff served her First Supplement to Initial Disclosures on April 26, 2021;
- 6 6. Plaintiff served her Responses to Defendant BTO Investments, Inc.'s First
- 7 Set of Interrogatories and First Set of Requests for Production on April 26, 2021;
- 8 7. Plaintiff propounded her First Set of Interrogatories and First Set of
- 9 Requests for Production to Defendant BTO Investments, Inc. on April 27, 2021;
- 10 8. CKE Defendants served their First Supplement to Initial Disclosures on April
- 11 30, 2021;
- 12 9. CKE Defendants propounded their First Set of Interrogatories and First Set
- 13 of Requests for Production to Plaintiff on June 10, 2021;
- 14 10. Defendant S.L. Investments served Initial Disclosures on June 19, 2021;
- 15 11. Defendant BTO Investments, Inc. served its First Supplement to Initial
- 16 Disclosures on June 25, 2021;
- 17 12. Defendant BTO Investments, Inc. served its Responses to Plaintiff's First
- 18 Set of Interrogatories and First Set of Requests for Production on June 25, 2021;
- 19 13. Plaintiff served her Responses to the CKE Defendants' First Set of
- 20 Interrogatories and First Set of Requests for Production on July 12, 2021;
- 21 14. Plaintiff propounded her Second Set of Interrogatories to Defendant BTO
- 22 Investments, Inc. on July 28, 2021;
- 23 15. Plaintiff propounded her First Set of Requests for Production to Defendant
- 24 S.L. Investments on July 28, 2021;
- 25 16. Defendant S.L. Investments propounded its First Set of Requests for
- 26 Admissions to Defendant BTO Investments, Inc. on August 6, 2021;
- 27 17. CKE Defendants served their Second Supplement to Initial Disclosures on
- 28 August 24, 2021;

1 18. Defendant BTO Investments, Inc. served its Responses to Plaintiff's Second
2 Set of Interrogatories on August 27, 2021;

3 19. CKE Defendants served their Third Supplement to Initial Disclosures on
4 September 2, 2021;

5 20. Defendant BTO Investments, Inc. served its Responses to S.L. Investments'
6 First Set of Requests for Admissions on September 7, 2021;

7 21. Plaintiff served her Second Supplement to Initial Disclosures on September
8 9, 2021;

9 22. Plaintiff served her Third Supplement to Initial Disclosures on September
10 20, 2021;

11 23. Plaintiff served her First Supplemental Responses to Defendant BTO
12 Investments, Inc.'s First Set of Interrogatories and First Set of Requests for Production on
13 September 21, 2021;

14 24. Defendant BTO Investments, Inc. served its Second Supplement to Initial
15 Disclosures on October 1, 2021;

16 25. Defendant BTO Investments, Inc. served its First Supplemental Responses
17 to Plaintiff's First Set of Requests for Production on October 1, 2021;

18 26. Plaintiff Holly Wood was deposed on October 8, 2021;

19 27. Defendant BTO Investments, Inc. served its First Supplemental Responses
20 to Plaintiff's First Set of Interrogatories on October 15, 2021.

21 28. BTO District Manager was deposed on October 29, 2021;

22 29. Plaintiff served her Fourth Supplement to Initial Disclosures on October 29,
23 2021; and

24 30. Celene Molina was deposed on December 17, 2021.

25 III.

26 AREAS OF DISCOVERY

27 The undersigned parties agree that the areas of discovery should include, but not
28 be limited to, all claims and defenses permitted by the Federal Rules of Civil Procedure,

1 including issues of liability and damages.

2 IV.

3 DISCOVERY DEADLINES

4 Local Rule 26-1(b)(1) provides that “unless otherwise ordered, discovery periods
 5 longer than one hundred and eighty (180) days from the date the first defendant answers
 6 or appears will require special scheduling review.” On February 23, 2021, the Court
 7 granted the parties’ Proposed Discovery Plan and Scheduling Order, approving the
 8 parties’ request for a 240-day discovery period, as reasonable and necessary, in light of
 9 the impact of the COVID-19 pandemic. (Doc. 30). On June 25, 2021, the Court granted
 10 the parties’ Amended Plan and Scheduling Order, approving the parties’ request that an
 11 additional 90 days be added to the discovery period, for a total of 330 days, based on
 12 certain extenuating circumstances, including the unsuccessful Early Neutral Evaluation
 13 on March 10, 2021, followed by entry of Defendant S.L. Investments into the suit, the
 14 withdrawal of CKE Defendants’ former attorneys and the appearance of their current
 15 attorneys, the pending service of Defendant Rucey Molina Cruz, written discovery
 16 extensions, the continuation of Plaintiff’s deposition, the anticipated need for the
 17 depositions of additional fact witnesses and Plaintiff’s treating physicians, and inadvertent
 18 errors in the calculation of the original Order. (Doc. 48). On September 8, 2021, the
 19 Court granted the parties’ Amended Plan and Scheduling Order (Second Request),
 20 approving the parties’ request that an additional 60 days be added to the discovery
 21 period, for a total of 390 days, based on extenuating circumstances, including a pending
 22 mediation, new handling attorneys for Defendant BTO Investments, Inc., the pending
 23 service of Defendant Rucey Molina Cruz, and the anticipated need for the depositions of
 24 additional fact witnesses and Plaintiff’s treating physicians. (Doc. 55). The Court granted
 25 the parties’ request that an additional 30 days be added to the discovery period, for a total
 26 of 420 days, based on extenuating circumstances, including delays related to an
 27 unsuccessful mediation, the potential need for an independent medical examination and
 28 expert(s) to opine on possible apportionment of emotional distress damages; the

1 rescheduling of certain depositions, and the anticipated need for the depositions of
2 additional fact witnesses and expert witnesses. (Doc. 69).

3 The parties now propose that an **additional 30 days** be added to the 420-day
4 discovery period, for a total of **450 days**. The parties have been diligently working to
5 complete discovery in accordance with the current deadlines. However, certain factors
6 have necessitated an extension of the current deadlines. Though the parties recognize
7 the Court's disinclination to grant another extension, the parties contend that the following
8 factors constitute good reason.

9 First, due to a medical issue, Plaintiff's expert, Michael Elliott, Ph.D., needs
10 additional time to finalize his initial report.

11 Second, the parties also anticipate the need for the depositions of additional fact
12 witnesses and expert witnesses. The parties anticipate that coordinating these
13 depositions and accommodating the work and vacation schedules for the witnesses and
14 the attorneys involved is expected to necessitate additional discovery time, especially
15 during the holiday season and COVID-19 pandemic.

16 For all these reasons, the parties respectfully request that the applicable discovery
17 deadlines be extended an additional 30 days. Upon a showing of good cause, this Court
18 is authorized to modify the discovery schedule. See, FRCP 6(b)(1)(A); LR 26-4. "The
19 district court may modify the pretrial schedule if it cannot reasonably be met despite the
20 diligence of the party seeking the extension." Johnson v. Mammoth Recreations, Inc.,
21 975 F.2d 604, 609 (9th Cir. 1992). Based upon the date the first Defendant answered or
22 otherwise appeared (December 23, 2020) (Doc. 1), the undersigned parties hereby
23 propose the following discovery schedule pursuant to the LR 26-1 (April 17, 2020):

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Current Discovery Plan & Scheduling Order		<i>Proposed</i> Amended Discovery Plan & Scheduling Order
Event	Current Deadline	Proposed Deadline
Discovery Cut-Off	February 16, 2022 (Wednesday)	March 18, 2022 (Friday) [450 Days from date first defendant answers or appears - LR 26-1(b)(1)]
Amending Pleadings Adding Parties	November 18, 2021 (Thursday)	CLOSED [90 Days Before Close of Discovery - LR 26-1(b)(2)]
Initial Expert Disclosures	December 17, 2021 (Friday)	January 17, 2022 (Monday) [60 Days Before Close of Discovery - LR 26-1(b)(3) is a Saturday, 12/18/21]
Rebuttal Expert Disclosures	January 17, 2021 (Monday)	February 16, 2022 (Wednesday) [30 days after the Initial Disclosure of Experts - LR 26-1(b)(3) is a Sunday, 1/16/21]
Dispositive Motions	March 18, 2022 (Friday)	April 18, 2022 (Monday) [30 Days After Close of Discovery - LR 26-1(b)(4) - is a Sunday 4/17/22]
Pre-Trial Order	April 18, 2022 (Monday)	May 18, 2022 (Wednesday) [30 Days After the Dispositive Motion Deadline - LR 26-1(b)(5)]

1 With respect to the Pre-Trial Order, if dispositive motions are filed, the deadline for filing a
2 Joint Pre-Trial Order will be suspended until 30-days after a decision on the dispositive
3 motion(s) is/are rendered or until further Court notice. See, Local Rule 26-1 (b)(5).

4 V.

5 DISCOVERY DEADLINES

6 If the Court has questions regarding the dates proposed by the parties, the parties
7 request an opportunity for a conference with the Court before entry of this proposed
8 amended Scheduling Order. If the Court does not have questions, the parties do not
9 request a conference with the Court. All written discovery previously served with
10 responses that are otherwise outstanding shall not be affected by any subsequent
11 amended Order, unless the parties agree otherwise in writing.

12 VI.

13 EXTENSIONS OR MODIFICATIONS OF DISCOVERY DATES

14 This Court's Local Rule 26-3 governs modifications or extensions of this Discovery
15 Plan and Scheduling Order. According to the rule, "[a]ll motions or stipulations to extend
16 a deadline set forth in a discovery plan shall be received by the court no later than twenty-
17 one (21) days before the expiration of the subject deadline."

18 VII.

19 FORMAT OF DISCOVERY

20 Pursuant to the electronic discovery amendments to the Federal Rules of Civil
21 Procedure effective December 1, 2006, the undersigned parties addressed the e-
22 discovery issues pertaining to the format of discovery at the FRCP 26(f) conference. The
23 parties agree that to the extent electronic discovery is requested or produced, such
24 discovery shall be carried out in accordance with the procedures set forth in FRCP 34(b)
25 and 26(b).

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VIII.

DISCOVERY DISPUTES

All discovery disputes in this case shall be governed by the provisions of Local Rule 26-6. The parties agree to employ good faith efforts to resolve all discovery disputes prior to seeking intervention by the Court.

IX.

PRESENTATION OF ELECTRONIC EVIDENCE TO A JURY

The parties certify that they communicated whether they intend to present evidence in electronic format to jurors for the purpose of jury deliberations. At this time, the parties have not made any stipulations regarding providing discovery in an electronic format compatible with the Court's electronic jury evidence display system.

Respectfully Submitted by:

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/s/ Paul S. Padda
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Dated: December 17, 2021.

Respectfully Submitted by:

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Dated: December 17, 2021.

Order

IT IS SO ORDERED

DATED: 4:01 pm, December 20, 2021



**BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE**